

The portion of the record which petitioner proposes to print consists only of the report of a Master appointed by the United States District Court for the Eastern District of Virginia, the judgment of the District Judge based thereon, as supplemented by the Opinion and decree of the Fourth Circuit Court of Appeals, a petition for rehearing and the opinion and order thereon. As thus constituted the record would not contain even the moving papers upon which the judgment of the Fourth Circuit Court of Appeals is based.

Respondent Trustee Stone, filed a petition to consolidate the bankruptcy proceedings of Tip Top Tailors (of Virginia), Inc., pending in the Eastern District of Virginia with the proceedings in bankruptcy of its parent corporation Tip Top Tailors, Inc., a Delaware Corporation, pending in the District of New Jersey. The respondent creditors of the parent Corporation intervened and joined in this application for consolidation.

The application to consolidate was based substantially upon testimony taken before Thomas B. Snead, Referee in Bankruptcy, and upon petitions for reclamation filed with the Referee by certain alleged creditors of the Virginia corporation. Upon the filing of the petition for consolidation, the District Judge, by his order, directed the Trustee of the Virginia corporation and its creditors to show cause why the prayers of the petition to consolidate should not be granted.

Notice of that order having been duly given to the Trustee and creditors of the Virginia corporation, answers to the petition were filed by the latter. The matter was heard and fully argued before the District Judge. A copy of the order of the District Judge is annexed hereto as Appendix "A".

None of these basic pleadings and no part of this record are contained in the portion of the record which petitioner now proposes to print. Respondent submits that the petition for a writ of certiorari cannot be considered by this Court unless the printed record includes the entire record upon which the judgment of the Circuit Court of Appeals was based.

Parenthetically it should be pointed out that in the proceedings before the Circuit Court of Appeals, respondents (who were appellants below), in accordance with Rule 10 of the Rules of that Court, printed only the Master's report and the judgment of the District Court based thereon. Nevertheless, the entire record was examined and considered by the Circuit Court in its determination, as appears from its Opinions.

In the absence of a statement of facts by petitioner supporting his motion with respect to the record and for the other reasons stated above, respondents respectfully submit that the motion of petitioner to limit the record should be denied.